

1  
2  
3  
4 **UNITED STATES DISTRICT COURT**  
5 **DISTRICT OF NEVADA**  
6

7 JAMES ROBINSON,  
8 #30289-048,

9 *Plaintiff,*

10 vs.

11 BILL BROOKS, *et al.*,

12 *Defendants.*  
13  
14

2:09-cv-0831-RCJ-RJJ

ORDER

15 Plaintiff is a prisoner proceeding *pro se* and has submitted a complaint (#1) attempting to initiate  
16 a civil rights action pursuant to 42 U.S.C. § 1983. He has not submitted an application to proceed *in*  
17 *forma pauperis* or paid the filing fee. On at least three (3) occasions, the Court has dismissed civil  
18 actions commenced by the plaintiff for being frivolous.<sup>1</sup>

19 Under 28 U.S.C. § 1915(g), “if the prisoner has, on 3 or more prior occasions, while incarcerated  
20 or detained in any facility, brought an action or appeal in a court of the United States that was dismissed  
21 on the grounds that is frivolous, malicious, or fails to state a claim upon which relief may be granted,”  
22 he may not proceed *in forma pauperis* and instead must pay the full \$350.00 filing fee in advance,  
23 unless he is under imminent danger of serious physical injury. Section 1915(g)’s cap on prior dismissed  
24

---

25 <sup>1</sup> See *Robinson v. Tomasso*, 2:96-cv-1065-PMP-RJJ; *Robinson v. Brooks*, 2:97-cv-0056-  
26 PMP-RJJ, *Robinson v. Dahl*, 2:97-cv-0356-PMP-LRL. Furthermore, in another action, *Robinson v.*  
27 *Quig-Terry*, 2:96-cv-0927-PMP-RLH, the Court ordered Plaintiff to file an amended complaint  
28 because his original complaint was frivolous. Plaintiff never filed an amended complaint, and the  
Court dismissed that action. That also operates as a dismissal for a frivolous action. The Court  
takes judicial notice of its prior records in the above matters.

1 claims applies to claims dismissed both before and after the statute's effective date" of April 26, 1996.  
2 *Tierney v. Kupers*, 128 F.3d 1310, 1312 (9th Cir. 1997).

3 Plaintiff cannot proceed *in forma pauperis* in this action or any other civil action filed in any  
4 federal court because he has had three (3) or more prior actions dismissed for failure to state a claim  
5 upon which relief may be granted, or as frivolous or malicious. Plaintiff has not alleged, and the subject  
6 matter of this action does not indicate, that he is in imminent danger of serious physical injury. He must  
7 pre-pay the filing fee in full.

8 **IT IS THEREFORE ORDERED** that this action will be dismissed without prejudice unless  
9 plaintiff pays the \$350.00 filing fee in full within **thirty (30) days** of entry of this order.

10 **IT IS FURTHER ORDERED** that the Clerk of Court shall send plaintiff two copies of this  
11 order. Plaintiff shall make the necessary arrangements to have one copy of this order attached to the  
12 check paying the filing fee.

13 **IT IS FURTHER ORDERED** that the Clerk of the Court shall retain the complaint.

14 DATED: April 14, 2010

15  
16   
17 \_\_\_\_\_  
18 UNITED STATES MAGISTRATE JUDGE  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28